

Com Use #

1130

Customer No.: 23381

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re The Application Of )  
Great Divide Brewing Company )  
Serial No. 75/011,297 )  
Filed October 27, 1995 )  
International Class 32 )  
For: "WHITEWATER WHEAT" )

Trademark Law Office 101

AMENDMENT B

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

Below is an amended concurrent use trademark application. Please enter this  
amended version in the above-identified trademark folder.

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 AUG 26 AM 12:27

TRADEMARK TRIAL AND  
APPEAL BOARD  
02 AUG 27 AM 12:07

Amendment B  
Great Divide Brewing Company  
"WHITEWATER WHEAT"  
S/N: 75/011,297  
Filed: October 27, 1995

**AMENDMENT**

Please amend the concurrent use trademark application as follows:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
APPLICATION FOR CONCURRENT TRADEMARK REGISTRATION  
ON THE PRINCIPAL REGISTER

MARK: WHITEWATER WHEAT

INTERNATIONAL CLASS: 32

Applicant: Great Divide Brewing Company  
2201 Arapahoe Street  
Denver, Colorado 80205

TO THE COMMISSIONER OF  
PATENTS AND TRADEMARKS:

Applicant, Great Divide Brewing Company, is a Colorado corporation having a principal place of business at 2201 Arapahoe Street, Denver, Colorado 80205.

The above-identified applicant has manufactured and sold ale and beer and has adopted and used the above mark on labels for bottles and on tap handles for draft beer and other uses common in the trade; it requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 in its name.

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The trademark was first used on or before June 4, 1993 and on or before December 15, 1994 in interstate commerce, and is now in use in such commerce.

The trademark is used on tap handles and on labels on containers of beer sold at retail establishments by bottle, keg and by the glass by the applicant. One (1) label specimen showing the trademark is presented with this application.

Brian Dunn, president of Great Divide Brewing Company, declares that he believes Great Divide Brewing Company is the owner of the trademark sought to be registered:

(A) that this application is for a concurrent use to allow for certain users who may have senior rights in limited geographic areas. To the best of our knowledge, the users who may have limited rights, for which a concurrent use application is being made, are as follows:

1) Otto Brothers' Brewing Company, principal place of business P.O. Box 4177, Jackson, Wyoming 83001.

The Otto Brothers' Brewing Company, during the months of June, July and August during some years, sells a beer entitled "Whitewater Wheat Beer" from it's retail establishment located in Jackson Hole, Wyoming. The extent of the sales, either in dollar amount or geographic distribution is, to the best of our information, limited to no more than \$1,000.00 off premises per year and a distance no greater than 50 miles from Jackson Hole, Wyoming. Otto Brothers' Brewing Company obtained a State registration for trade mark usage of "Whitewater Wheat" in the State of Wyoming, under Registration No. RWY284474 filed on or about August 26, 1993. Allegedly, its first use was July 7, 1993.

(B) that, to the best of his knowledge and belief, no other person, firm, corporation or association, other than stated above, has the right to use said mark in commerce, either in the identical form or in such resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake or to deceive;

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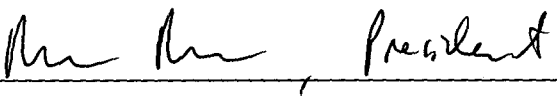
(C) that all statements made on information are believed to be true;

(D) and further, that these statements were made with the knowledge that such willful false statements in the light so made, are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful, false statements may jeopardize the validity of this application or any subsequent documents or any registration resulting therefrom.

Applicants hereby appoint J. Mark Smith and Leslie P. Kramer of the firm of Dorr, Carson, Sloan & Birney, P.C., 3010 East 6<sup>th</sup> Avenue, Denver, CO 80206, (303) 333-3010, who are members of the Bar of the State of Colorado, as their attorneys to prosecute this application to registration, to transact all business in the United States Patent and Trademark Office connected therewith, and to receive the certificate of registration.

Please direct all communications pertaining to this application to J. Mark Smith, Dorr, Carson, Sloan & Birney, P.C., 3010 East 6<sup>th</sup> Avenue, Denver, CO 80206, (303) 333-3010

GREAT DIVIDE BREWING CO.

  
\_\_\_\_\_  
Brian Dunn, President

DATED this 24<sup>th</sup> day of July, 2002.

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**REMARKS**


The applicant has now amended the Statement of Concurrent Use to exclude any mention of Steamboat Brewery and Tavern and after the completion of this amendment it is believed that this application is now in proper form for acceptance and since the Examiner has not found any registered trademark or servicemark or pending application for a trademark or servicemark that would in any way cause confusion or mistake by the public it is believed that this application is now in proper condition for acceptance and passage of this application to publication at an early date is solicited.

If, for any reason, the Trademark Examining Attorney does not agree that this application is in condition for publication, he is requested to initiate a telephone interview with the undersigned attorney in order to resolve any remaining problems.

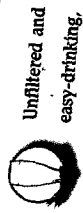
Respectfully Submitted,

GREAT DIVIDE BREWING

BY DORR, CARSON, SLOAN & BIRNEY, P.C.

  
\_\_\_\_\_  
J. Mark Smith  
Registration No. 37,725  
3010 East 6<sup>th</sup> Avenue  
Denver, Colorado 80206  
(303) 333-3010

Date: July 27, 2002



Unfiltered and  
easy-drinking,  
Whitewater Wheat has a  
lively mouthfeel, light body  
and delicate citrus character.  
Rapidly refreshing.

*Mason Thomas*  
Mason Thomas  
VP of Operations

Craft-brewed with the purest ingredients.  
Keep cold for optimum freshness.

**CASH REFUND**

OR-14-DE-MA-CT-VT-NY-WF-ME-SC-PA-NC-OK

# GREAT DIVIDE Whitewater WHEAT



GOVERNMENT WARNING: (1) ACCORDING TO THE SURGEON GENERAL  
WOMEN SHOULD NOT DRINK ALCOHOLIC BEVERAGES DURING PREGNANCY  
BECAUSE OF THE RISK OF BIRTH DEFECTS. (2) CONSUMPTION OF ALCO-  
HOLIC BEVERAGES IMPAIRS YOUR ABILITY TO DRIVE A CAR OR OPERATE  
MACHINERY, AND MAY CAUSE HEALTH PROBLEMS.

BREWED AND BOTTLED BY

GREAT DIVIDE BREWING COMPANY

2201 ARAPAHOE ST.

DENVER, CO 80205

PH. 303.296.9460

www.greatdivide.com



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MONTH AND WEEK BOTTLED:

J F M A M J J A S O N D - 1 2 3 4 5

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

TRANSMITTAL LETTER (GENERAL)  
(With Certificate of Mailing by First Class Mail)

Applicant/Registrant: **Great Divide Brewing Company**  
Serial No.: **75/011,297**  
Registration No.:  
Trademark: **WHITEWATER WHEAT**

Docket No.  
**9014/2**

TO THE ASSISTANT COMMISSIONER FOR TRADEMARKS:

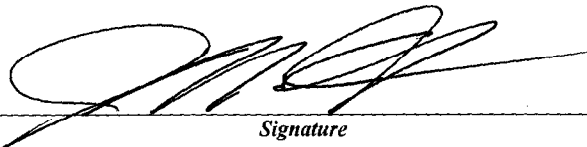
Transmitted herewith is the following:

**Amendment B**  
**One Label Specimen**

☒ No fee is required.

☐ Please charge Deposit Account No. \_\_\_\_\_ in the amount of \_\_\_\_\_  
A duplicate copy of this sheet is enclosed.

☐ A check in the amount of \_\_\_\_\_ is attached.  
Any excess or insufficiency should be credited or debited to Deposit Account No. \_\_\_\_\_  
A duplicate copy of this sheet is enclosed.

  
Signature

Dated: July 30, 2002

**J. Mark Smith**  
**Registration No. 37,725**  
**Dorr, Carson, Sloan & Birney, P.C.**  
**3010 East 6th Avenue**  
**Denver, CO 80206**  
**303-333-3010**  
**Fax 303-333-1470**

I certify that this document and fee is being deposited  
on July 30, 2002 with the U.S. Postal Service as  
first class mail under 37 C.F.R. 1.8 and is addressed to the  
Assistant Commissioner for Trademarks, 2900 Crystal  
Drive, Arlington, Virginia 22202-43513.

  
Signature of Person Mailing Correspondence

**J. Mark Smith**

Typed or Printed Name of Person Mailing Correspondence

CC: